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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,956	02/11/2004	David J. Cole	A33083-PCT-USA-I (072667)	5744
21003	7590	10/02/2006	EXAMINER	
BAKER & BOTTS 30 ROCKEFELLER PLAZA 44TH FLOOR NEW YORK, NY 10112			SHEN, WU CHENG WINSTON	
			ART UNIT	PAPER NUMBER
			1632	

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/776,956	Applicant(s) COLE ET AL.	
	Examiner Wu-Cheng Winston Shen	Art Unit 1632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-8 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 1-8 are pending in the instant application.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a method of identifying compounds that induce GST expression in graminaceous plants comprising recited steps, classified in class 435, subclass 7.2

- II. Claims 7-8, drawn to a kit for identifying compounds that induce GST expression in plants, said kit comprising an anti-GST antibody which binds to a protein comprising a polypeptide selected from the group consisting of a polypeptide which is a GST subunit, classified in class 435, subclass 283.1.

Inventions of the Groups I - II are patentably distinct, each from the other. Inventions are patentably distinct if it can be shown that they are not disclosed as capably of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06).

In the instant case, Group I is patentably distinct from Group II because the steps and technical considerations of the inventions in Group I are not obvious over the compositions of the kit in Group II.

The search for claims in Group I and Group II is distinct one from each other and not co-extensive and thereby presents search burdens on the examiner.

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3. This application contains claims directed to the following patentably distinct species: SEQ ID No. 2, SEQ ID No. 4, SEQ ID No. 6, SEQ ID No. 8, SEQ ID No. 10, SEQ ID No. 12, SEQ ID No. 14, SEQ ID No. 16, and SEQ ID No. 18 (claims 3, 4, and 7). The species are independent and distinct because they are different GST subunit with distinct amino acid sequences, structures, and functions.

This application contains claims directed to the following patentably distinct species: SEQ ID No. 1, SEQ ID No. 3, SEQ ID No. 5, SEQ ID No. 7, SEQ ID No. 9, SEQ ID No. 11, SEQ ID No. 13, SEQ ID No. 15, and SEQ ID No. 17 (claims 3, 4, 6, 7, and 8). The species are independent and distinct because they are different nucleic acid sequences encoding different GST subunit with distinct amino acid sequences, structures, and functions.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 3, 4, 6, 7, and 8 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. Election of nucleic acid sequences SEQ ID No. is required to consistent with the election of the amino acid sequences SEQ ID No., which is encoded by the elected nucleic acid sequences SEQ ID No. An argument that a claim is

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allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

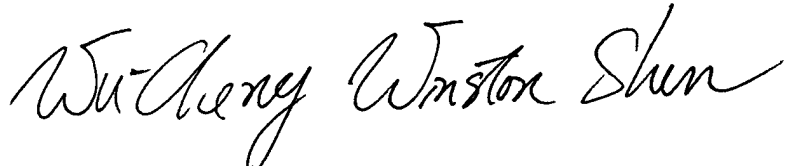
4. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

5. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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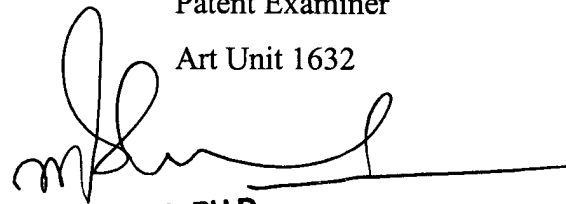
Any inquiry concerning this communication from the examiner should be directed to Wu-Cheng Winston Shen whose telephone number is (571) 272-3157 and Fax number is 571-273-3157. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the supervisory patent examiner, Ram Shukla, can be reached on (571) 272-0735. The fax number for TC 1600 is (571) 273-8300. Any inquiry of a general nature, formal matters or relating to the status of this application or proceeding should be directed to Dianiece Jacobs whose telephone number is (571) 272-0532.



Wu-Cheng Winston Shen, Ph. D.

Patent Examiner

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RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER